

BOARD OF SELECTMEN

Minutes of the Meeting of 25 February 2009. The meeting took place in the Court Room, Town and County Building, 16 Broad Street, Nantucket, MA 02554. Members of the Board present were Rick Atherton, Brian Chadwick, Michael Kopko, Allen Reinhard, and Patricia Roggeveen. Chairman Kopko called the meeting to order at 6:01 PM.

Chairman Kopko discussed changes/additions to the agenda.

CITIZEN/DEPARTMENTAL REQUESTS

Treasurer: Request for Approval of General Obligation Bond Anticipation Note. Treasurer Deborah Weiner was present to answer questions from the Board. Mr. Reinhard read the motion for approval of the General Obligation Bond Anticipation Note (attached); Ms. Roggeveen seconded. Mr. Atherton noted he would like to review the material events disclosure document. All in favor, so voted.

At 6:06 PM Mr. Atherton moved to recess the Board of Selectmen meeting and to reconvene after the Board of Health and County Commissioners meetings; Mr. Chadwick seconded. All in favor, so voted.

At 6:32 PM Chairman Kopko reconvened the Board of Selectmen.

ANNOUNCEMENTS

None.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Approval of Minutes 17 December 2008 at 6:00 PM. The minutes of 17 December 2008 at 6:00 PM were approved by the unanimous consent of the meeting.

Approval of Payroll Warrant for Week Ending 22 February 2009. The payroll warrant for the week ending 22 February 2009 was approved by the unanimous consent of the meeting.

Approval of Treasury Warrant and Pending Contracts for 25 February 2009. The treasury warrant for 25 February 2009 was approved by the unanimous consent of the meeting. There were no pending contracts.

TOWN MANAGER'S REPORT

Town Manager C. Elizabeth Gibson noted she would like to contribute to the budget discussion under Selectmen's Reports.

Ms. Gibson said the police union contract allows that when grievances are filed, the Board of Selectmen or its designee handles the grievance. The Board's designee to date has been Ms. Gibson. Ms. Gibson requested that the Board designate Assistant Town Manager Malachy Rice to hear grievances from the police union. Mr. Chadwick moved approval; Mr. Reinhard seconded. All in favor, so voted.

Chairman Kopko said he has received communication from Town Counsel and Director of Planning Andrew Vorce regarding the state's Ocean Management Act and Nantucket's lack of representation at the state level. Chairman Kopko said it has been recommended that he travel to Boston with Mr. Vorce on Tuesday, 3 March to meet with Senator O'Leary and Representative Madden about how to get

Nantucket "a seat at the table" and he noted that Town Counsel will be present at the meeting as well which is covered under the retainer. The Board gave its consent for Chairman Kopko to attend the meeting.

SELECTMEN'S REPORTS/COMMENT

Action on "Keno to Go" Notification. Ms. Gibson said the Town has been notified by the Massachusetts State Lottery that local business Lucky Express has applied to offer "KENO to Go", and that the Board need only take action if it objects to the application. After a discussion about what "KENO to Go" is, Mr. Chadwick moved to take no action on the notification; Ms. Roggeveen seconded. All in favor, so voted.

Finalization of Amendments to Town of Nantucket Taxi Regulations. Ms. Gibson noted the Board has a summary of the proposed taxi regulation changes in its packets and said Assistant Town Manager Malachy Rice worked diligently on the changes with Chief Pittman. Mr. Atherton asked why Town Counsel recommended not taking the Board's suggested language out regarding the transfer of licenses. Town Counsel Paul DeRensis said that since the Town prevailed with litigation about the meaning of that section concerning transfers, and is mindful of future potential litigation, he does not want to publicly make a statement on the issue, but would be happy to meet individually with Board members to discuss. The Board had a brief discussion on the regulation changes. Mr. Reinhard moved to adopt the taxi regulation amendments with an effective date 30 days from today; Ms. Roggeveen seconded. All in favor, so voted.

Finalization of Recommendations to Finance Committee Regarding Fiscal Year 2010 General Fund Budget and FY 2010 Solid Waste Enterprise Fund Budget. Ms. Gibson presented an overview of the FY 2010 budget since the 23 February budget workshop. The presentation included Town Administration's budget recommendations. Ms. Gibson reviewed the General Fund budget with and without a \$1.9 million subsidy to the Solid Waste Enterprise Fund (SWEF) and noted it is Town Administration's recommendation that the SWEF deficit be addressed in the SWEF and be treated like other enterprise funds of the Town. Ms. Gibson reviewed the projected FY 2010 SWEF deficit and gave background information on SWEF revenues and fees. She said the Board has to make a decision on how the SWEF deficit is to be addressed and noted that Free Cash could be used as bridge funding to fund capital costs such as accelerated landfill mining in FY 2010 until a dedicated revenue source is established in the SWEF. Ms. Gibson also reviewed adjustments to the FY 2010 General Fund budget if the \$1.9 million SWEF deficit is subsidized by the General Fund, including additional Town and school personnel spending reductions, a reduction in Town and school operating expenses, and a reduction of the capital projects to be paid for from the General Fund, among others. The Board then discussed the budget and their ideas to help balance the budget, including a new model proposed by Mr. Atherton to close the SWEF deficit which would not require an override or new fees. Mr. Atherton also suggested that the Town needs to ask its two largest contractors, Town Counsel and Waste Options Nantucket (WON), to assist the Town in reducing costs. He noted that WON volunteered some savings the previous year and he expects the same reductions from legal counsel. Chairman Kopko said he has spoken with Town Counsel regarding a reduction in legal costs and that he is amenable to working with the Town on this. Mr. Chadwick noted that all Town departments were asked to reduce their expenses by 10% and it would seem reasonable for the Chairman to ask Town Counsel to reduce the retainer by that amount. Mr. Chadwick then moved to authorize the Chairman to negotiate a reduction in litigation rates by 10% and a reduction of the legal retainer by 10%; Mr. Atherton seconded. All in favor, so voted. A discussion about the SWEF deficit continued, including funding it through fees and/or taxes, as well as funding it through the current budget with the current revenue. Mr. Atherton moved to submit a budget to the Finance Committee that does not contemplate an override or a new broad-based fee structure; Mr. Reinhard seconded. Mr. Atherton noted that he did support an

override for an accelerated landfill mining program until he learned at Monday's budget workshop that the Town is expecting \$5 million in Free Cash. Ms. Roggeveen urged the Board to allocate fees where the expenses are and establish a dedicated revenue stream to the SWEF through new and/or modified fees. Ms. Gibson noted again that Town Administration's recommendation is to fund the SWEF deficit in the SWEF, saying the General Fund can no longer afford to subsidize the SWEF and said an enterprise fund should be self-sustaining, which the SWEF is not. Mr. Atherton's motion was so voted 3-2; Mr. Chadwick and Ms. Roggeveen were opposed.

Solid Waste Work Group: Status Report. Chairman Kopko said the work group is made up of Ms. Roggeveen, Mr. Atherton, Mr. Rice, solid waste consultant George Aronson, solid waste special counsel Michael Leon, and Ms. Gibson. Ms. Roggeveen said Whitney Hall of Waste Options Nantucket (WON) will be present at next week's meeting to review WON's proposals and financials, to review Department of Environmental Protection (DEP) issues including legacy costs such as capping the landfill, accelerated mining, and storage of residuals, and will give the opportunity to ask questions. Mr. Atherton said the Town's solid waste consultant has been very helpful to make sure there is understanding about tonnage and waste flows, and said he feels the Town should "bite the bullet" on commercial and demolition (C&D) waste and continue to ship it off-island rather than put into a lined landfill cell. Ms. Roggeveen noted WON said they hadn't met with the Board of Selectmen in six years and that they have made good progress. Mr. Rice said the work the Town has done with the consultant and special counsel, including hundreds of hours of analyzing the solid waste budget, has resulted in the Town now being able to "wrap its hands around the issues". Mr. Reinhard said the work group has done an amazing job and feels the relationship with WON has been improved and the lines of communication opened up. Ms. Roggeveen said the Town has a wonderful landfill facility and a recycling rate of 90% which is one of the highest in the state. She noted there are some outstanding issues but they are progressing and recognized that the landfill is a value to the Town. Chairman Kopko pointed out that recycling does come at a cost to the Town which is not currently borne by the citizens.

Action on Pledge of Allegiance at Selectmen's Meetings. A discussion among Board members took place as to whether or not to start Board meetings with the Pledge of Allegiance. Mr. Chadwick moved that the Pledge of Allegiance be said at the beginning of the Board's Wednesday night meetings; Ms. Roggeveen seconded. So voted 4-1; Mr. Atherton was opposed.

A discussion followed on the protocol for the minutes, specifically ensuring that necessary reference documentation is attached to minutes.

The meeting was unanimously adjourned at 8:20 PM.

Approved the 16th day of September, 2009.

VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Nantucket, Massachusetts, certify that at a meeting of the board held February 25, 2009, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: to approve the sale of a \$9,602,235 1.75 percent General Obligation Bond Anticipation Note (the "Series A Note") of the town dated February 27, 2009, and payable February 26, 2010, to Eastern Bank at par and accrued interest plus a premium of \$98,436.78.

Further Voted: to approve the sale of a \$4,610,490 1.00 percent General Obligation Bond Anticipation Note (the "Series B Note", and together with the Series A Note, the "Notes") of the town dated February 27, 2009, and payable March 30, 2009, to Eastern Bank at par and accrued interest plus a premium of \$295.83.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated February 13, 2009, and a final Official Statement dated February 19, 2009, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the consent to the financial advisor bidding for the Notes, as executed prior to the bidding for the Notes, is hereby confirmed.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a material events disclosure undertaking in compliance with SEC Rule 15c2-12 in such forms as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date and time of the meeting was filed with the Town Clerk and a copy thereof posted in the office of the Town Clerk or on the principal official bulletin board of the town at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting.

that no deliberations or decision in connection with the sale of the Notes were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G.L. c.39, s.23B as amended.

Dated: February 25, 2009


Clerk of the Board of Selectmen

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